

TITLE 848 INDIANA STATE BOARD OF NURSING

Proposed Rule LSA Document #05-2

DIGEST

Adds 848 IAC 7 concerning the requirements for a program for the rehabilitation of impaired registered nurses or impaired licensed practical nurses, and requirements for participation in a program for the rehabilitation of impaired registered nurses or licensed practical nurses. Effective 30 days after filing with the secretary of state.

SECTION 1. 848 IAC 7 IS ADDED TO READ AS FOLLOWS:

Rule 7. Indiana State Nurses Assistance Program

848 IAC 7-1-1 Definitions

Authority: IC 25-23-1-7

Affected: IC 25-23-1-31

Sec. 1. The following definitions apply throughout this article:

- (a) “Board” means the Indiana state board of nursing.**
- (b) “IPLA” means the Indiana professional licensing agency.**
- (c) “Indiana State Nurses Assistance Program” or “ISNAP” means an abstinence based program for the rehabilitation and monitoring of impaired registered nurses or licensed practical nurses that have been affected by the personal use or abuse of alcohol or other drugs.**
- (d) “Nurse” means a:**
 - (1) registered nurse as defined in IC 25-23-1-1.1; or**
 - (2) licensed practical nurse as defined in IC 25-23-1-1.2.**
- (e) “Recovery Monitoring Agreement” or “RMA” means the written document establishing the terms for an individual registered nurse’s or licensed practical nurse’s participation in the abstinence based rehabilitation monitoring program.**
- (f) “Treatment program” means an abstinence based program or facility that is accredited by:**
 - (1) Joint Commission on Accreditation of Healthcare Organizations (JCAHO); or**
 - (2) other appropriate agencies that accredit addiction treatment programs, including but not limited to the:**
 - (A) Commission on Accreditation for Rehabilitation Facilities (CARF);**
 - (B) Council on Accreditation of Services for Families and Children (COA);**
 - (C) Health Facilities Accreditation Program (HFAP);**
 - (D) Indiana Family and Social Services Administration**

(FSSA); and
(E) Indiana State Department of Health (ISDH).
(Indiana State Board of Nursing; 848 IAC 7-1-1)

848 IAC 7-1-2 Eligibility

Authority: IC 25-23-1-7

Affected: IC 25-23-1-31

Sec. 2. (a) A nurse who has been affected by the personal use or abuse of alcohol or other drugs is eligible for participation in ISNAP if the nurse:

- (1) is licensed by the Board;**
- (2) has applied for licensure by examination;**
- (3) has applied for licensure by endorsement;**
- (4) has applied for reinstatement of a lapsed license; or**
- (5) has submitted a renewal application.**

(b) In order to participate in ISNAP, the nurse must sign an abstinence based recovery monitoring agreement (RMA) with ISNAP. Failure to comply with the terms of the RMA may subject the nurse to termination from participation in ISNAP.

(c) A nurse shall maintain an active Indiana nursing license to be and to remain eligible for participation in ISNAP. A nurse who allows the nurse's license to lapse while enrolled in ISNAP shall be terminated from participation in ISNAP until the nurse's license is renewed. A nurse whose license is revoked may no longer participate in ISNAP at the expense of the State of Indiana.

(d) A nurse who holds:

- (1) an Indiana nursing license; and**
- (2) a nursing license in another state;**

but practices in another state shall be monitored by the state in which the nurse practices if the other state has a monitoring program.

(e) If a nurse is being monitored by another state's program, the nurse shall be responsible for causing the monitoring program in the other state to submit copies of that program's monitoring reports to the board and adherence information requested if the nurse has had disciplinary action imposed on the nurse's license by the Indiana board.

(f) A nurse who practices in another state that does not have a monitoring program is eligible for monitoring by ISNAP if the nurse maintains an active Indiana license.

(g) A nurse who signs a RMA with ISNAP and begins practicing in another state shall be monitored by the other state unless the other state does not have a monitoring program. (Indiana State Board of Nursing; 848 IAC 7-1-2)

848 IAC 7-1-3 Recovery monitoring agreement requirements for participants

Authority: IC 25-23-1-7

Affected: IC 25-23-1-31

Sec. 3. (a) A nurse participating in ISNAP must execute and abide by the

terms of a recovery monitoring agreement. The RMA shall identify the requirements and responsibilities of the parties to the agreement.

(b) The RMA shall include, but is not limited to, the following:

- (1) The length of time the nurse shall participate in ISNAP.
- (2) The abstinence based treatment plan to be followed by the nurse.
- (3) The consequences of failure to comply with the abstinence based treatment plan or other terms of the RMA.
- (4) The restrictions placed on the nurse's activities regarding the practice of nursing and the duration of such restrictions.
- (5) The requirements for monitoring and supervision that must be met by the nurse.
- (6) A statement that will allow the IPLA and the board to review the nurse's file for compliance with the RMA and to audit the services provided by ISNAP.
- (7) The releases for seeking information or records related to the nurse's impairment from family, peers, medical personnel, employers, or treatment providers.
- (8) A statement that costs accruing to the nurse, including, but not limited to, treatment and body fluid screens, shall be the responsibility of the nurse and shall not be the responsibility of ISNAP.
- (9) The fee to be assessed to the nurse for participation in the program, including:
 - (A) The fee assessed for all participants, if any.
 - (B) An additional fee that may be assessed if the nurse is terminated or otherwise released from the program and then readmitted.
 - (C) An additional fee that may be assessed if the length of the nurse's RMA is extended.
- (10) Any other information related to the rehabilitation and monitoring of the nurse.

(Indiana State Board of Nursing; 848 IAC 7-1-3)

848 IAC 7-1-4 Recovery monitoring agreement requirements; length of agreement

Authority: IC 25-23-1-7

Affected: IC 25-23-1-31

Sec. 4. (a) The RMA will last a minimum of three (3) years, except as provided in subsections (b) and (c). The requirements for monitoring will be more stringent in the first two (2) years and will be eased in the third year if the nurse's recovery is progressing well.

(b) Relapses and other failures to comply with the terms of the RMA may result in a longer period of monitoring. As appropriate, an addendum to the RMA may be initiated by ISNAP. However, the monitoring program shall not exceed five (5) years, except in case of extenuating circumstances. Participation in the

monitoring program beyond the five (5) year maximum must receive pre-authorization from the board.

(c) Mitigating factors including, but not limited to, the following may be taken into consideration by ISNAP in determining the length of an individual nurse's participation in the program and may cause the RMA to last less than three (3) years:

- (1) Time spent in a treatment facility or treatment program before executing the RMA.
- (2) Documented sobriety or recovery prior to executing the RMA.
- (3) The severity of the nurse's use or abuse of alcohol or other drugs.

(Indiana State Board of Nursing; 848 IAC 7-1-4)

848 IAC 7-1-5 Recovery monitoring agreement requirements; voluntary and involuntary referrals

Authority: IC 25-23-1-7

Affected: IC 25-23-1-31

Sec. 5. (a) An impaired nurse may enter the rehabilitation and monitoring program either by voluntary referral or by involuntary referral.

(b) If the nurse contacts ISNAP voluntarily, the rehabilitation monitoring program shall be explained by ISNAP and an appointment shall be scheduled for an initial screening.

(c) A nurse may enter the rehabilitation monitoring program by an involuntary referral if:

- (1) the rehabilitation monitoring program is contacted by
 - (A) individuals;
 - (B) supervisors; or
 - (C) professional organizations;regarding the nurse in need of assistance; or
- (2) a nurse is referred to the rehabilitation monitoring program by order of the board.

If a nurse is involuntarily referred under subdivision (1), ISNAP shall assist in developing individual strategies, including techniques for intervention to arrange a referral to the program.

(d) If the nurse does not agree to participate in the program by voluntary or involuntary referral, a written complaint shall be filed by ISNAP with the Consumer Protection Division of the Office of the Attorney General. *(Indiana State Board of Nursing; 848 IAC 7-1-5)*

848 IAC 7-1-6 Recovery monitoring agreement requirements; additional program requirements

Authority: IC 25-23-1-7

Affected: IC 25-23-1-31

Sec. 6. (a) ISNAP shall monitor each nurse's participation in the rehabilitation monitoring program for compliance with the program.

(b) The treatment plan referenced in the RMA must be abstinence based.

(c) Monitoring shall include the following, as each applies to the individual nurse's treatment plan:

- (1) Treatment and therapy recommendations, including aftercare.
- (2) Treatment and therapy participation, including aftercare.
- (3) Participation in an abstinence based support group.
- (4) Professional support group participation.
- (5) Work activities, including return-to-work issues for all participants, and ongoing monitoring of work performance and compliance with restrictions or limitations imposed by the program contract or the board.
- (6) Random drug testing.
- (7) A determination by ISNAP whether or not the nurse shall be terminated from participation in the program for failure to comply with program requirements.

(b) In addition to subsection (a), ISNAP may monitor each nurse for compliance in family treatment and special treatment, including, but not limited to, pain management, psychiatric treatment, or psychological treatment, if those treatments are included in the individual nurse's treatment plan.

(c) ISNAP shall report to the board the name and license number of a nurse that has failed to comply with the provisions of the rehabilitation and monitoring program and the circumstances surrounding the failure to comply. ISNAP may release information to the board or to the Office of the Attorney General, Consumer Protection Division, in compliance with IC 25-23-1-31 and in compliance with all applicable state and federal confidentiality laws and regulations.

(d) ISNAP shall, upon the written request of the nurse, purge participant records provided that no additional occurrences of alcohol or other drug related violations have been reported to the board over a period of seven (7) years from the nurse's last use of alcohol or other drugs, pursuant to IC 16-39. ISNAP may purge records after seven (7) years as provided for in IC 16-39.

(e) After a nurse has completed the recovery monitoring agreement period, upon the nurse's request, the nurse will be permitted to voluntarily sign a subsequent agreement for an additional period of time. The nurse is directly responsible for the cost of all monitoring conducted by ISNAP. The cost of monitoring of these individuals shall not be assessed to the board. (*Indiana State Board of Nursing; 848 IAC 7-1-6*)

848 IAC 7-1-7 Violations

Authority: IC 25-23-1-7

Affected: IC 25-1-9; 25-23-31-1

Sec. 7. A nurse's failure to:

- (1) comply with the program requirements that result in the termination of that nurse's participation in ISNAP, or
- (2) failure to sign a RMA,

will subject the nurse to discipline under IC 25-1-9. (*Indiana State Board of Nursing;*

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on November 17, 2005 at 8:45 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Auditorium, Indianapolis, Indiana, the Indiana State Board of Nursing will hold a public hearing on proposed additions to concerning the requirements for a program for the rehabilitation of impaired registered nurses or impaired licensed practical nurses, and requirements for participation in a program for the rehabilitation of impaired registered nurses or licensed practical nurses.

The State Board of Nursing is required by IC 25-23-1-31 to assist in the rehabilitation of impaired registered nurses or impaired licensed practical nurses that have been affected by the use or abuse of alcohol or other drugs. The Indiana State Nurses Assistance Program (ISNAP), which was created as a result of IC 25-23-1-31, is funded by the impaired nurses' account created by IC 25-23-1-34.

The proposed rules serve to formalize the requirements for participation in the program. The rules will not change current procedures nor generate any revenue for the state. The proposed rules clarify the amount of time a nurse may participate in the program. The proposed rules will have no fiscal impact as the expenditures for operations are limited by the amount of funds in the impaired nurses' account. This proposed rule will have no cost on the regulated entities.

Copies of these rules are now on file at the Indiana Government Center-South, 402 West Washington Street, Room W072 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Frances L. Kelly
Executive Director
Indiana Professional Licensing Agency